

## IMPLEMENTATION OF SUBSECTION (b)(2)

Section 614(c) of Pub. L. 101-510 provided that: “The Secretary of Defense may not implement subsection (b)(2) of section 302e of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

- “(1) justifying the need of the departments for the authority provided in such subsection; and
- “(2) describing the manner in which that authority will be implemented.”

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a of this title.

**§ 302f. Special pay: reserve, recalled, or retained health care officers**

(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302c, 302e, or 303 of this title (whichever applies) notwithstanding any requirement in those sections that—

- (1) the call or order of the officer to active duty be for a period of not less than one year; or
- (2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the armed forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302c, 302e, or 303 of this title and who—

- (1) is a reserve officer on active duty (other than for training) under a call or order to active duty for a period of more than 30 days but less than one year;
- (2) is involuntarily retained on active duty under section 673c<sup>1</sup> of title 10, or is recalled to active duty under section 688 of title 10 for a period of more than 30 days; or
- (3) voluntarily agrees to remain on active duty for a period of less than one year at a time when—

(A) officers are involuntarily retained on active duty under section 673c<sup>1</sup> of title 10; or

(B) the Secretary of Defense determines (pursuant to regulations prescribed by the Secretary) that special circumstances justify the payment of special pay under this section.

(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. The officer shall refund any amount received under this section in excess of the amount that corresponds to the actual period of active duty served by the officer.

(d) SPECIAL RULE FOR RESERVE MEDICAL OFFICER.—While a reserve medical officer receives a special pay under section 302 of this title by reason of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

(Added Pub. L. 102-190, div. A, title VI, §634(a), Dec. 5, 1991, 105 Stat. 1381.)

<sup>1</sup> See References in Text note below.

## REFERENCES IN TEXT

Section 673c of title 10, referred to in subsec. (b)(2), (3)(A), was renumbered section 12305 of Title 10, Armed Forces, by Pub. L. 103-337, div. A, title XVI, §1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.

## ACTIVE DUTY IN CONNECTION WITH OPERATION DESERT STORM

Pub. L. 102-25, title III, §304, Apr. 25, 1991, 105 Stat. 81, as amended by Pub. L. 102-190, div. A, title VI, §656, Dec. 5, 1991, 105 Stat. 1393, provided that:

“(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), notwithstanding any requirement in those sections that—

- “(1) the call or order of the officer to active duty be for a period of not less than one year; or
- “(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

“(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the Armed Forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code, and who—

- “(1) is a reserve officer on active duty under a call or order to active duty for a period of less than one year in connection with Operation Desert Storm;
- “(2) is involuntarily retained on active duty under section 673c [now 12305] of title 10, United States Code, or is recalled to active duty under section 688 of that title, in connection with Operation Desert Storm; or
- “(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

“(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. If the service on active duty of an officer described in subsection (b) is terminated before the end of the period for which a payment is made to the officer under subsection (a), the officer is entitled to special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

“(d) SPECIAL RULE FOR RESERVE MEDICAL OFFICER.—While a reserve medical officer receives a special pay under section 302 of title 37, United States Code, by operation of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

“(e) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.”

**§ 303. Special pay: veterinarians**

Each of the following officers is entitled to special pay at the rate of \$100 a month for each month of active duty:

- (1) A commissioned officer—

(A) of the Regular Army who is in the Veterinary Corps;

(B) of the Regular Air Force who is designated as a veterinary officer; or

(C) who is a veterinary officer of the Regular Corps of the Public Health Service.

- (2) A commissioned officer—

(A) of a Reserve component of the Army who is in the Veterinary Corps of the Army;

(B) of a Reserve component of the Air Force, of the Army or the Air Force without

specification of component, or of the National Guard, who is designated as a veterinary officer of the Army or the Air Force, as the case may be; or

(C) who is a veterinary officer of the Reserve Corps of the Public Health Service,

who is on active duty as a result of a call or order to active duty for a period of at least one year.

(3) A general officer of the Army or the Air Force appointed, from any of the categories named in clause (1) or (2), in the Army, the Air Force, or the National Guard, as the case may be.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 465; Pub. L. 88-2, § 5, Mar. 28, 1963, 77 Stat. 4; Pub. L. 90-40, § 5, June 30, 1967, 81 Stat. 105; Pub. L. 92-129, title I, § 104, Sept. 28, 1971, 85 Stat. 355; Pub. L. 93-64, title II, § 203, July 9, 1973, 87 Stat. 149; Pub. L. 95-114, § 3, Sept. 30, 1977, 91 Stat. 1046; Pub. L. 95-485, title VIII, § 801(b), Oct. 20, 1978, 92 Stat. 1619; Pub. L. 96-284, § 4(c), June 28, 1980, 94 Stat. 591; Pub. L. 100-26, § 8(d)(3), Apr. 21, 1987, 101 Stat. 285; Pub. L. 100-180, div. A, title XII, § 1232, Dec. 4, 1987, 101 Stat. 1161; Pub. L. 102-25, title VII, § 702(b)(2), Apr. 6, 1991, 105 Stat. 117.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303(a) .....	37:234(b) (less 1st proviso, as applicable to veterinarians).	Oct. 12, 1949, ch. 681, § 203(b) (as applicable to veterinarians), (c), 63 Stat. 809; June 25, 1952, ch. 459, § 1, 66 Stat. 156; June 29, 1953, ch. 158, § 8 (as applicable to veterinarians), 67 Stat. 89; June 30, 1955, ch. 250, § 203, 69 Stat. 225; Apr. 30, 1956, ch. 223, § 5, 70 Stat. 122; Mar. 23, 1959, Pub. L. 86-4, § 5, 73 Stat. 13.
303(b).	37:234(b) (1st proviso, as applicable to veterinarians).	

In subsection (a), clause (1) is substituted for section 234(c)(1), (2), and (3) of existing title 37. The words “of the Regular Army” and “of the Regular Air Force” are inserted in clauses (1)(A) and (B), respectively, since in contradistinction to section 234(c)(4) of existing title 37, their source was intended to apply only to regular officers. Clauses (2)(A) and (B) are substituted for the enumeration of categories in section 234(c)(4) of existing title 37 to reflect current usage and designations of those categories. Clause (3) is substituted for section 234(c)(5) and (6) of existing title 37. Section 234(b) (2d proviso) of existing title 37 is omitted as obsolete. Section 234(b) (last proviso) of existing title 37 is omitted as inapplicable to veterinarians.

In subsection (b), the words “disability retirement pay” are omitted as covered by the words “retired pay”.

#### AMENDMENTS

1991—Par. (3). Pub. L. 102-25 struck out “of this subsection” after “clause (1) or (2)”.

1987—Pub. L. 100-180 substituted semicolon for comma at end of par. (2)(A) and “; or” for “, or” at end of par. (2)(B).

Pub. L. 100-26 substituted “A” for “a” at beginning of pars. (1) to (3), semicolon for comma at end of par. (1)(A), “; or” for “, or” at end of par. (1)(B), period for semicolon at end of par. (1)(C), and period for “; and” at end of par. (2); and directed substitution of semicolon for comma at end of par. (1)(B) which could not be executed because no comma appeared at end of par. (1)(B).

1980—Pub. L. 96-284 substituted “Each” for “(a) In addition to any other basic pay, special pay, incentive pay or allowance to which he is entitled, each”, struck out “beginning on or after October 1, 1977” after “active duty”, struck out subsec. (b) which prohibited inclusion of active duty monthly special pay in computation of amount of increase in pay authorized in any other provision of this title or in computation of retired pay or severance pay, now covered in section 303a(b) of this title, and struck out subsec. (c) which provided that no special pay be paid for any month after September 1980.

1978—Subsec. (c). Pub. L. 95-485 substituted “September 1980” for “September 1978”.

1977—Subsec. (a). Pub. L. 95-114 amended subsec. (a) to provide for the reinstatement of special pay provisions for veterinarians for each month on active duty beginning on or after Oct. 1, 1977.

Subsecs. (b), (c). Pub. L. 95-114 reenacted subsec. (b) without change and added subsec. (c).

1973—Subsec. (a). Pub. L. 93-64 substituted “July 1, 1975” for “July 1, 1973” wherever appearing.

1971—Subsec. (a). Pub. L. 92-129 substituted “July 1, 1973” for “July 1, 1971” wherever appearing.

1967—Subsec. (a). Pub. L. 90-40 substituted “July 1, 1971” for “July 1, 1967” wherever appearing.

1963—Subsec. (a). Pub. L. 88-2 substituted “July 1, 1967” for “July 1, 1963” wherever appearing.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-114 effective Oct. 1, 1977, see section 4 of Pub. L. 95-114, set out as a note under section 302a of this title.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-64 effective July 1, 1973, see section 206 of Pub. L. 93-64, set out as a note under section 401 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 302f, 303a, 306 of this title.

### § 303a. Special pay: health professionals; general provisions

(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 301d, 302, 302a, 302b, 302c, 302d, 302e, and 303 of this title.

(b) Special pay authorized under sections 301d, 302, 302a, 302b, 302c, 302d, 302e, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other provision of this title or in computing retired pay, separation pay, severance pay, or readjustment pay.

(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 301d, 302, 302a, 302b, 302c, 302d, 302e, and 303 of this title.

(Added Pub. L. 96-284, § 5(a), June 28, 1980, 94 Stat. 592; amended Pub. L. 96-513, title V, § 506(6), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 100-140, § 2(b)(1), Oct. 26, 1987, 101 Stat. 831; Pub. L. 101-189, div. A, title VII, §§ 705(b), 706(b), Nov. 29, 1989, 103 Stat. 1472, 1473; Pub. L. 101-510, div.